

# Fair Go Rates system – Applying for a higher cap

Guidance for councils 2025–26

December 2024



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## About this document

This document provides guidance to help Victorian councils understand, plan for, prepare and submit a higher cap application under the Fair Go Rates system for the 2025-26 rating year. It explains the information we expect from Victorian councils applying for a **higher cap**, the process and timeline for making an application and how we will go about assessing an application.

Victoria's 79 councils reflect the diverse geographic and socioeconomic circumstances of the people they represent. The reasons why councils seek **higher caps** are accordingly diverse. We are keen to help councils understand the system and its requirements which is why we publish this guidance for councils on an annual basis.

This document reflects what we have learnt from assessing past applications, along with feedback received from the sector, our technical working groups and ratepayers. To make it easier to use our guidance, some material appears in more than one place.

This document offers general advice and guidance only.<sup>1</sup> Councils should not read this document as a set of fixed rules that will secure the approval of an application.

We will update and refine this guidance as necessary. Feedback on the document is welcome and will help us to improve the guidance.

Separate guidance on councils' compliance and reporting requirements relating to the Fair Go Rates system is also available on our website.<sup>2</sup>

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<sup>1</sup> This document is issued under s 11 of the Essential Services Commission Act 2001 in connection with our functions under s 10E of that Act and s 185E(4) of the Local Government Act 1989. We may provide further directions, advice and guidance in relation to particular applications or issue guidelines under the Local Government Act 1989.

<sup>2</sup> See [Council compliance with rate caps](#), which provides details on how to comply with the average rate cap set by the minister – or any higher cap approved by us – and how to report to us on compliance. Updated guidance on councils' compliance relating to the 2025–6 rating year will be made available in early 2025 on our website [Local government > Council compliance with rate caps > Guidance to help councils comply with rate cap](#).

## Supplementary Guidance 1: Higher cap applications to transfer waste charge revenue

In December 2023, the Department of Government Services published the Minister for Local Government's Good Practice Guidelines for Service Rates and Charges which took effect from 1 March 2024.<sup>3</sup>

The ministerial guidelines recommend that community waste services (litter collection, public bins, graffiti removal, street cleaning, etc.) should not be funded through service rates or charges because these services do not provide a direct benefit to the ratepayers paying the rate or charge. Instead, the guidelines recommend that these services be funded through other revenue sources (eg. general rates).

These ministerial guidelines articulate the Minister for Local Government's view of good practice, but they are not mandatory for councils to comply with. It is a matter for councils to decide whether, and if so, how, they want to comply with the guidelines. It is not our role to assess whether councils have complied with the guidelines.

To align service rates and charges with the guidelines, some councils may need to change from recovering the cost of certain services (such as community waste services) through service rates and charges to recovering these costs through general rates and charges. As the amount that general rates and charges can increase in a year is capped under the Fair Go Rates system, these councils may wish to apply for a **higher cap**. For simplicity we have referred to these types of applications as 'higher cap applications to transfer waste charge revenue' throughout this guidance.

Under the Fair Go Rates system, councils seeking a **higher cap** to transfer waste charge revenue are still required to follow the same application process as they would if they sought a **higher cap** for other reasons. To help councils focus their applications on the most relevant information, supplementary guidance is provided throughout this document in dedicated orange break out boxes.

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<sup>3</sup> Under section 162 of the Local Government Act 1989, a council may declare a service rate or an annual service charge or any combination of such a rate and charge for waste, recycling and recovery services or any other prescribed service. No other services are currently prescribed.

# 1. Rate capping under the Fair Go Rates system

## 1.1. Fair Go Rates system

The Fair Go Rates system is established under Part 8A of the *Local Government Act 1989* (the 1989 Act).

### Box 1.1 Purposes of the Fair Go Rates system

The **statutory purposes** of the Fair Go Rates system are:

- to promote the long-term interests of ratepayers and the community in relation to sustainable outcomes in the delivery of services and critical infrastructure; and
- to ensure that a Council has the financial capacity to perform its duties and functions and exercise its powers.<sup>4</sup>

The *Local Government Act 2020* (the 2020 Act) sets out other local government requirements for planning, procurement, community engagement, and service delivery.

## 1.2. The rate cap

Under the Fair Go Rates system, a rate cap limits the percentage amount that Victorian councils can increase their average rates in a financial year. The applicable rate cap for each council in any given financial year will be either an **average rate cap** set by the Minister for Local Government, or a **higher cap** approved by us.

[Appendix A](#) explains how the rate cap is applied to determine a council's compliance with the Fair Go Rates system.

### 1.2.1. Average rate cap

The Minister for Local Government sets the **average rate cap** each year – that is, the maximum percentage increase allowed in Victorian councils' average rates for the forthcoming financial year.<sup>5</sup> For simplicity, we refer to this as the **minister's cap** throughout this guidance. In the past nine years, the minister has set a single rate cap for all councils, but can set different rate caps for councils individually or by class.

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<sup>4</sup> Section 185A, Local Government Act 1989.

<sup>5</sup> In references to capping in this document, unless otherwise stated, 'rates' should be understood to mean average rates including general rates and municipal charges and any other prescribed rates or charges on rateable properties.

### 1.2.2. Higher cap

Councils cannot increase average rates by more than the **minister's cap**, unless we approve their application for a **higher cap**.<sup>6</sup> Victorian councils can apply to us for **higher caps** (for up to four years). Chapter 3 of this document provides further guidance on what should be included in a higher cap application.

### 1.3. Our role in assessing higher cap applications

One of our activities under the Fair Go Rates system is to assess any application for a higher cap and to decide whether the proposed **higher cap** is appropriate.<sup>7</sup> Chapter 4 of this document provides further guidance on the matters we consider in assessing a higher cap application.

When the assessment is completed, we publish our decision and reasons on our website and, if we approve a **higher cap**, we do so through a special Order published in the Government Gazette. The Order sets out the permissible percentage increase in average rates for the years specified.

### 1.4. Key dates of the Fair Go Rates system

The key dates and timeframes of the Fair Go Rates system for the 2025–26 rating year are set out in Table 1.

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<sup>6</sup> 'Average rates' refers to the rates paid by the notional average ratepayer. This is calculated by dividing total revenue required from rates by total number of rateable properties in each local government area.

<sup>7</sup> Section 185E(6), Local Government Act 1989. Note the 1989 Act, together with sections 10 and 10E of the Essential Services Commission Act 2001, defines our roles in administering the Fair Go Rates system.

**Table 1 Key dates for the 2025–26 rating year**

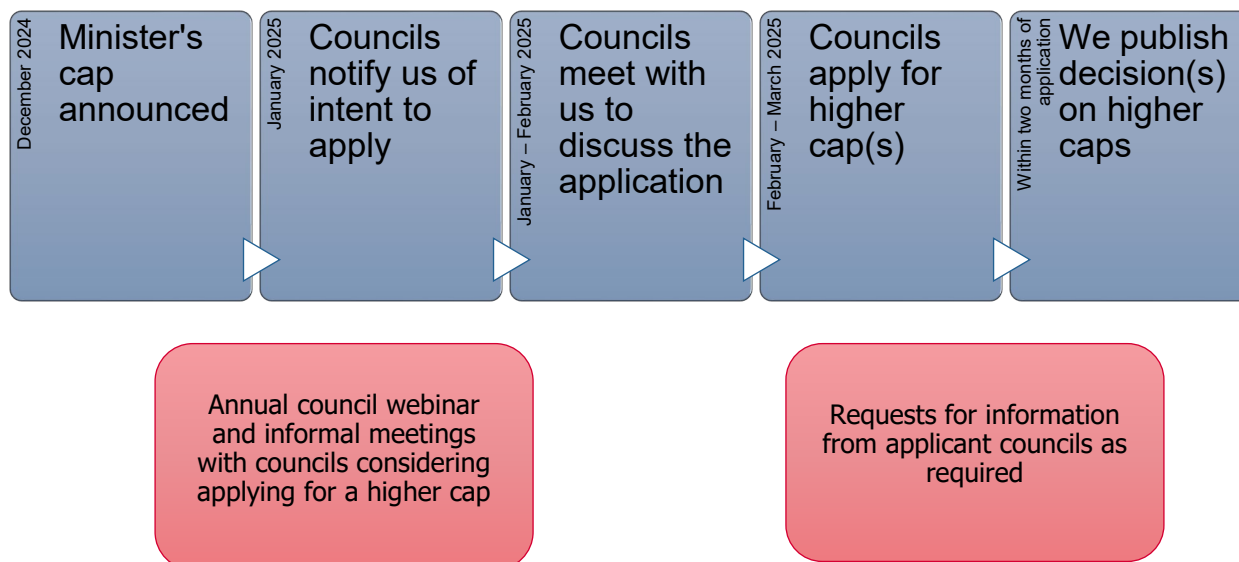
<b>Fair Go Rates system – key dates</b>	<b>Timeframe</b>
Base year	1 July 2024 – 30 June 2025
The minister announces the average rate cap	By 31 December 2024 <sup>a</sup>
Councils seeking a higher cap notify us of intention to apply	By 31 January 2025
Councils seeking a higher cap send application	1 February – 31 March 2025
We assess higher caps	February – May 2025
We publish our decision(s) on higher caps	Within two months of receiving the application
Capped year	1 July 2025 – 30 June 2026
Councils formally adopt budget	no later than June 2025
All councils send annual compliance information	By 30 September 2025
We publish compliance report	Late 2025

<sup>a</sup> Unless an alternative date is determined by the minister and published in the Government Gazette.



## 2. How councils can apply for higher caps

### 2.1. Overview of the higher cap application process



### 2.2. Annual council webinar and informal meetings

Towards the end of each year, we generally conduct a webinar for the sector. We remind councils of their obligations under the Fair Go Rates system and inform councils of the higher cap application process and our activities relating to the local government sector. These sessions are a good opportunity to learn about the process and the legislative requirements, and to talk to us about a potential higher cap application. We also welcome other opportunities to meet with councils to discuss the Fair Go Rates system.

We encourage any council considering applying for a **higher cap** to contact us as early as possible to discuss the process and our requirements.

### 2.3. Notification of intent

We ask councils to let us know by **no later than 31 January** if they intend to apply for a **higher cap**, and when we should expect their application. This helps us organise the resources we need to assess all applications in a timely manner.

To let us know, the council CEO can send an email advising us of its intention and nominating a contact officer. We will confirm receipt of the notification and publish a list of councils that give notice. We will provide notifying councils with an embargoed copy of any media release before its publication.

The notification does not oblige a council to submit an application. If a council subsequently decides not to apply, it should tell us (by email) of the change at the earliest possible time. We will publish this updated information on our website.

**We ask that the notification of intent specify:**

- the indicative higher cap or caps that the council is seeking
- the number of years (maximum of four financial years)
- indicative reasons for seeking a higher cap
- the date the council expects to send the application
- details of the nominated contact for future communications.

## **2.4. Pre-application meeting**

Once we receive a notification of intent, we will contact the council to arrange a time for a pre-application meeting. The meeting is a chance to discuss the application and to clarify as necessary the information that the council should provide.

## **2.5. Submitting an application**

An application for a **higher cap** must be in writing, with the council CEO's sign-off, and sent to us electronically at any time between **1 February 2025 and 31 March 2025**.<sup>8</sup> This application period provides councils with flexible timing to accommodate their different circumstances.

If a council cannot apply before 31 March, the minister may set a new application date in the Government Gazette.<sup>9</sup> A council should not assume the minister will do so other than in exceptional circumstances.

We will discuss with each council as necessary the best format and delivery method for the application and supporting documentation. File-size restrictions may mean a council must divide attachments across several emails. In this case, the council should number each attachment and clearly list them all on the application cover sheet. Councils should contact us if they have difficulties completing the templates or sending their application or supporting material.

When sending an application, councils should ensure that their applications, and any attachments, do not contain personal or sensitive information (such as ratepayer details). A council should also clearly indicate any confidential information in its application (or the supporting information).

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<sup>8</sup> Section 185E(2), Local Government Act 1989.

<sup>9</sup> Section 185E(2)(b), Local Government Act 1989.

We will confirm receipt of each application and place it on our website (excluding any confidential information).

We will publish a list of the councils that applied for **higher caps**, with the proposed **higher cap(s)** sought and the number of years over which the **higher cap(s)** would have effect. We will also provide applicant councils with an embargoed copy of any related media release.

**Where to send notifications and applications:**

Send electronic copies (required) to: [localgovernment@esc.vic.gov.au](mailto:localgovernment@esc.vic.gov.au)

Send hard copies (at own discretion) to:

*The Local Government Team, Essential Services Commission,  
Level 8, 570 Bourke Street, Melbourne, 3000.*

**Supplementary Guidance 2: Higher cap to transfer waste charge revenue**

The application process outlined in this chapter also applies to higher cap applications to transfer waste charge revenue. We encourage any council seeking a **higher cap** to transfer waste charge revenue **to apply as early as possible** so that we can assess these applications ahead of any higher cap applications we may receive for other reasons.

## 3. Higher cap application requirements

### A higher cap application must include:

1. an **application cover sheet** (the cover sheet)
2. a statement addressing the **six legislative matters** (the statement).

### These two documents must be supported by:

3. the completed **higher cap information template**
4. any **supporting documentation** the council considers relevant and necessary to support its applications (for example, engagement plans and outcomes; key strategic planning and budgetary documents; records and reports of service reviews; relevant policies and procedures).

The following sections describe each of these elements in more detail.

Councils should not see the application requirements as onerous. Most of the information we require in an application should be readily available to councils due to the existing requirements in the Local Government Act 2020 around planning and community engagement.

Our experience is that the more comprehensive and robust a council's long-term planning, and the better its engagement with the community, the easier it should be for the council to draw together the information needed to address the application requirements, including supporting material.

### 3.1. The cover sheet

Each application must include a completed application cover sheet. This form ([available on our website](#)) captures high-level information about the application. The cover sheet should include:

- the nominated contact for future communications
- the proposed **higher cap or caps**, in dollar and percentage terms
- the financial years (no more than four) in which a proposed **higher cap or caps** would have effect
- a brief summary of the reasons for the application
- a list of attachments supporting the application.

These components should be consistent with the application statement, the completed higher cap information template and any other supporting documentation.

## 3.2. The statement

After the cover sheet, the second – and major – component of an application is a statement addressing the **six legislative matters** that the council must specify in seeking a **higher cap** (see box 3.1).

### Box 3.1 Six legislative matters an application for a higher cap must specify

- (a) a proposed higher cap for each specified financial year (“**Proposed higher cap**”);
- (b) the reasons for which the Council seeks the higher cap (“**Reasons**”);
- (c) how the views of ratepayers and the community have been taken into account in proposing the higher cap (“**Engagement**”);
- (d) how the higher cap is an efficient use of Council resources and represents value for money (“**Efficiency and value for money**”);
- (e) whether consideration has been given to reprioritising proposed expenditure and alternative funding options and why those options are not adequate (“**Alternative funding and offsets**”); and
- (f) that the assumptions and proposals in the application are consistent with the Council’s long-term strategy and financial management policies set out in the Council’s planning documents and annual budget (“**Long-term planning**”).

Source: Section 185E(3) Local Government Act 1989.

In chapter 4, we explain what we look for in a council’s statement addressing each of these **six legislative matters**.

A council is responsible for determining what it considers sufficient to support its application. However, the greater the potential burden on ratepayers that a **higher cap** represents, the greater the effort we expect in preparing (and assessing) the application. The approval of a **higher cap** whether for one year or multiple years could result in significant rate increases and therefore burden on the council’s ratepayers. The time and effort a council puts into making an application should reflect the impact that our decision may have on the council and its ratepayers.

### Supplementary Guidance 3: Higher cap to transfer waste charge revenue

The requirements outlined in this chapter also apply to higher cap applications to transfer waste charge revenue.

Addressing each of the **six legislative matters** is a legislative requirement and is important for the council to demonstrate both to us and its ratepayers and community members that it has considered the impacts and alternatives and that seeking a **higher cap** is the best option.

However, we recognise that the impact on ratepayers and council finances and services of a **higher cap** solely to transfer waste charge revenue is likely to be lower than the impact of a **higher cap** sought for other reasons. This is because a **higher cap** to only move service rates and charges revenue to general rates revenue won't result in additional revenue for the council nor will it have an impact on ratepayers overall, unless councils also seek to change their services or recover additional costs. The lower the burden on ratepayers, and the narrower the range of issues involved, the less evidence and justification we're likely to need to satisfy ourselves that a **higher cap** is appropriate. We anticipate that it may be easier for a council to prepare such an application.

In applications where council is proposing no, or little, change in the total revenue it collects or the services delivered, the main impacts to the council, its community and ratepayers are likely to be distributional. This is because waste charges are levied on a per property basis, meaning all ratepayers pay the same amount, whereas general rates are calculated based on the value of the property, meaning ratepayers (within the same property class) with higher value properties will pay more. If a council is seeking a **higher cap** to transfer revenue from service rates to general rates there may be less distributional impacts because service rates are also calculated based on property value.

We encourage councils seeking a **higher cap** to transfer waste charge revenue to submit applications that focus on the key issues, drawing on existing material as much as possible to minimise any administrative burden associated with the application.

### 3.3. Higher cap information template

The third required component of any higher cap application is the completed higher cap information template ([available on our website](#)). The data provided in this template gives us much of the information we need to assess the stated financial position of the council, its calculation of the proposed **higher cap**, and its reasons for applying.

The higher cap information template focuses on a council's long-term financial outlook. A council should provide supporting information (income statements, balance sheets and capital works statements), for up to ten years, to complete the template. The information provided, for at least

the budget year and the following three years, should be consistent with (or reconciled to) the adopted four-year Revenue and Rating Plan and four-year Council Plan, and the ten-year Financial Plan. For outer years covered only by the Financial Plan, we recognise that the council may have less detailed information to provide. Box 3.2 below explains the importance of planning for the longer term.

The financial information must set out 'with **higher cap**' and 'without **higher cap**' scenarios. The first scenario assumes we approve the **higher cap**; the second assumes the council stays operating under the **minister's cap**. This comparison shows the impact of the proposed rate increase on a council's financial position. The difference between the scenarios should support the reasons for applying for a **higher cap**. Any impacts on service delivery or infrastructure management should be identified.

### **Box 3.2 Why is long-term financial information important?**

A council may cite underlying factors that will impact on its finances over the longer term as reasons for a **higher cap**. Looking at only four years may not adequately capture these impacts. This is especially the case for a council applying for multi-year caps, where a four-year outlook is unlikely to capture the long-term effects of the proposal and demonstrate the underlying financial need. The same may be true where a council seeks a **higher cap** significantly above the **minister's cap**, with potential impact on its finances over an extended period.

Based on the information provided, the higher cap information template will automatically calculate relevant financial indicators, as used in the local government performance reporting framework.<sup>10</sup> We use these indicators (in addition to other information provided in the council's application) to assess a council's financial capacity and long-term funding need.

The completed higher cap information template must provide forecasts necessary to calculate the **higher cap(s)**. This includes the forecast growth in rateable properties and annualised supplementary general rates and municipal charges. The onus is on councils to make the most reasonable forecasts of this growth, and to explain their assumptions in the template.

The higher cap information template includes detailed instructions and definitions to help council staff complete it.

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<sup>10</sup> The template calculates indicators of Liquidity (Working capital; Unrestricted cash), Obligations (Asset renewal; Loans and borrowings; Indebtedness) and Operating position (Adjusted underlying result).

### **Supplementary Guidance 4: Higher cap to transfer waste charge revenue**

The higher cap information template includes two supplementary worksheets that councils seeking to transfer waste charge revenue are required to complete in addition to the other worksheets.

The first supplementary worksheet asks councils to define their waste services and provide the expenditure and associated revenues for those services, for the budget year and up to 5 previous years. We have not prescribed waste service definitions as we understand that councils take different approaches to cost recovery and defining their waste services. At a minimum, councils should ensure the line items include the waste services for which funding is proposed to be transferred from service rates and charges to general rates.

The second supplementary worksheet sets out the long-term outlook related to waste services, including forecasts of waste expenditure and revenue related to waste services. The worksheet calculates the impact on the adjusted underlying result and working capital ratio of forgoing the revenue for which it is seeking the **higher cap**.

### **3.4. Supporting material**

Councils can use existing information to support their applications. For example, a council could rely on previous community engagement records to show that the community requires a certain level of service or past service reviews to show that the council has looked for efficiencies in service delivery. It is not necessary to develop new information solely to support an application, but councils may choose to do so.

When attaching supporting material, a council should include cross-references in its statement (with relevant page numbers) and explain the significance of the material in enough detail to support the application.

Supporting documents prepared for different purposes at different dates may present different versions of what is essentially the same information. If a council is going to rely on such documents to support its application, it needs to consider how best to present the information and identify and explain any inconsistencies.

When attaching supporting material to its application, council should ensure all personal or confidential information has been removed, or else draw our attention to it to prevent sensitive information being uploaded on to our website.



### **3.5. Requests for further information**

During the assessment period, we will be in touch with council contacts as necessary to clarify issues or seek further information to understand the application better.

If we identify significant information gaps, we will send a written request to the council as soon as possible after receiving the application.

We will place the council's responses to our requests alongside the council's original application on our website. We will include any supporting documents provided, unless marked as confidential.

We will use our best efforts to finish each assessment and publish the decision within two months of receiving an application.

## 4. How we assess an application

### 4.1. What we assess

As required under the Fair Go Rates system, we can approve a **higher cap** (see section 185E(6) of the 1989 Act) if we think it is appropriate having regard to:

- the **six legislative matters** required to be included in an application (see section 185E(3) of the 1989 Act and box 3.1),
- the council's **compliance history** in relation to any previous rate cap
- the council's **compliance with any directions** we have given in relation to its application (per section 185E(5) of the 1989 Act).

In making our assessment, section 10E(7) of the ESC Act requires us to promote the **statutory purposes** of the Fair Go Rates system (see section 185A of the 1989 Act and box 1.1).

Our assessment takes into account both **statutory purposes**, the **six legislative matters** that applications must address, and council compliance with previous rate caps and any directions from us. This approach ensures that the assessment includes all relevant factors covered by the legislation that impact on whether the application demonstrates that a **higher cap** is appropriate.

### 4.2. Our integrated assessment approach

We have an integrated approach to considering the **six legislative matters** and the **statutory purposes** when assessing whether a **higher cap** is appropriate. This integrated assessment approach is represented graphically in figure 4.1.

Our interpretation of the **purposes** (box 1.1) and **six legislative matters** (box 3.1) of the Fair Go Rates system means we generally only consider a **higher cap** appropriate where a council can demonstrate a **long-term funding need** that justifies a **higher cap**, and that the **higher cap** promotes the **long-term interests of ratepayers and the community**. We assess this based on the application as a whole, including the responses to all **six legislative matters**.

Demonstrating that a council has a long-term funding need, and that approval of a **higher cap** is consistent with the long-term interests of ratepayers is important, because an approval can allow up to four annual **higher caps** in succession, each increasing the rate base permanently.

We will consider whether the application demonstrates that sustainable outcomes in service delivery and critical infrastructure will be achieved through approval of the **higher cap** and how this is in the long-term interests of ratepayers and the community. This may include matters relating to value for money, net impact on ratepayers, ratepayer and community views and outcomes (including relating to services, service levels and infrastructure).

We consider a **higher cap** is less likely to be assessed as appropriate if an application:

- does not demonstrate a long-term funding need
- does not demonstrate that it is in the long-term interests of ratepayers and the community
- proposes to apply the **higher cap** to fund short-term needs
- is not supported by adequate long-term financial planning
- does not demonstrate that the council accounted for the views of the community and ratepayers
- is inconsistent with the council's internal plans and policies, and conflicts with information provided to the community and ourselves
- is not supported by our analysis of the council's financial capacity to manage its needs.

#### Supplementary Guidance 5: higher cap to transfer waste charge revenue

We expect a council to demonstrate:

- it has a long-term need to retain the revenue it would forego if it reduced its service rates and charges revenue by the amount proposed without increasing its general rate revenue
- that the **higher cap** is in the long-term interests of ratepayers and the community.

That is, we expect the council to demonstrate that if we did not approve the **higher cap**, the council would be left with a long-term funding need for that revenue and outcomes that are inconsistent with the long-term interests of ratepayers and the community.

#### 4.2.1. Assessment questions

We frame our assessment in terms of 4 questions:

##### 1. Is there an underlying financial need?

We look at the council's responses to the first two legislative matters: the **Proposed higher cap** and the **Reasons** for which it is required. They should be consistently stated and clearly explained throughout the application. We also look at the council's financial capacity, as shown by the current values and the past and forecast trends of financial indicators in the local government performance reporting framework. We focus on the adjusted underlying result (as well as other key financial indicators such as the working capital ratio, unrestricted cash position and asset renewal ratio). We may also consider specific council characteristics such as road length, and trends such as population growth and dependence on grant revenue, to understand the financial pressures faced by the council.

##### 2. Has the council taken steps to manage the financial need?

We look at the council's responses to the fourth and fifth legislative matters: **Efficiency and value for money**, and **Alternative funding and offsets**. We consider information the council provides in support, and we look at indicators and trends in the local government performance reporting

framework. Where relevant we may look at the council's management of cash including discretionary reserves, its use of debt in the context of the council's policy on borrowing, and the statutory financial management principles.

We consider records of service reviews that the council has completed, and of planned and historical savings that it can quantify. We look for any other cost saving initiatives the council has pursued or is considering. We may make comparisons with other councils, using unit costs of service delivery and similar benchmarks.

### **3. Have ratepayer and community views been taken into account?**

We look at the council's response to the third legislative matter, **Engagement**, and consider how the views of ratepayers and the community have been taken into account in proposing the **higher cap**. Specific engagement on the higher cap application itself may not be needed if the council's other engagement activities have canvassed community views on matters relevant to the reasons for the **higher cap**.

We look for evidence in the council's application that the council has taken the outcomes of its engagement into account when applying for a **higher cap**.

We expect a council to show that it has a community engagement policy, itself developed through consultation with community members.<sup>11</sup> We also expect to see evidence that the council followed this policy, and openly and actively discussed with ratepayers and the community all issues of substance covered in the other legislative matters.

### **4. Are plans, policies and processes in place consistent with a need for a higher cap?**

Our focus here is on the sixth legislative matter, **Long-term planning**, its integration with the other matters and its consistency with the supporting financial information. A council can demonstrate its need for a **higher cap** most clearly through good long-term financial planning. We will look to understand how the need for a **higher cap** is reflected in a council's long-term planning. Do the council's plans, policies and processes show us and ratepayers and the community that the council has considered all of its options in a robust way? We will look to understand whether the council's plans were developed with community involvement and are based on reasonable assumptions and reliable and relevant information.

Having these elements in place helps a council ensure it bases its projections of long-term revenue and expenditure on robust and relevant information. Good long-term planning can also aid good decision-making by identifying potential opportunities and constraints.

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<sup>11</sup> As required under s 55 of the 2020 Act.

#### 4.2.2. Guidance for a multi-year higher cap application

In its form and presentation, an application for a **higher cap** that will take effect over two to four years is not significantly different from an application for a single year. However, the cumulative nature of a **higher cap** may mean that successive rate increases have a greater impact on ratepayers than a **higher cap** for a single year.

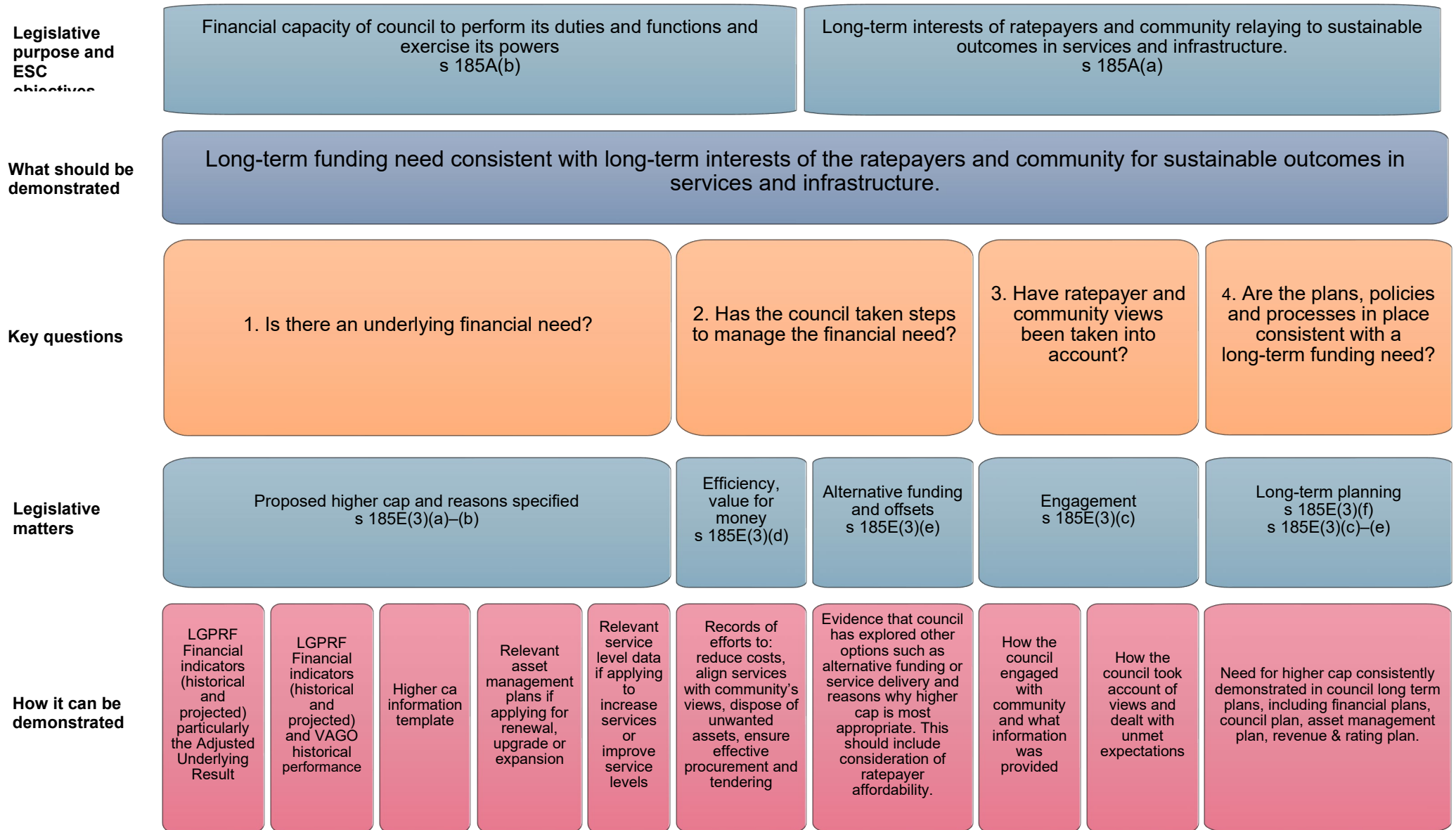
In documenting its plans, we would expect the council to demonstrate that it:

- considered whether trade-offs – such as different service, infrastructure and financial options that might not exist in the short term – may become available over two to four years
- modelled alternative scenarios (not limited to a single with/without **higher cap** comparison)
- outlined the key operating and financial assumptions in the long-term financial plans, ensuring these are consistently stated (or adequately reconciled) in the narrative statement, formal budgets and plans, and the completed higher cap information template.

It should be clear how the views of ratepayers and the community informed the council's plans. We expect an application to show that the council engaged effectively, securing adequate representation and involvement of its community. For a multi-year higher cap application, we would expect the council to be clear with its community about the options under consideration and the impact of any multi-year cap. The application should also show how the council responded to the views that it gathered through engagement, and how it dealt with unmet expectations.

Because circumstances may change significantly during the timespan of a multi-year cap, we expect a council to show a commitment to continuing this engagement and reviewing its priorities, as part of its normal planning and budget processes.

**Figure 4.1 Integrated assessment**



### 4.3. The six legislative matters that must be addressed

While we adopt an integrated approach to our assessments (as outlined in section 4.2), all applications are required to address the **six legislative matters** set out in legislation. To support councils in addressing each of these matters, this section sets out:

- the **purpose** of specifying the information in each matter
- our general and specific expectations for each matter
- what **supporting evidence** can be provided.

#### Supplementary Guidance 6: Higher cap to transfer waste charge revenue

All applications, no matter the reason, are required to specify the **six legislative matters**.

However, the information needed to support an application for a **higher cap** to transfer waste charge revenue is likely to differ from that needed to support a higher cap application made for other reasons. This is particularly so in relation to the nature of the financial information and the scope of issues covered.

To help councils applying for a **higher cap** to transfer waste charge revenue prepare their applications and focus on the key information we are likely to need during our assessment, we have included supplementary general and specific expectations for these applications. This information is supplementary to and should be read in the broader context of other guidance set out in this section.

#### 4.3.1. Proposed higher cap

*An application must specify a proposed higher cap for each specified financial year.<sup>12</sup>*

##### Purpose

The purpose of this legislative matter is to show the rate increase(s) being sought and the year(s) in which the increase(s) will have effect.

The information specified in relation to this legislative matter will help us understand whether, and how, the proposed **higher cap** addresses the council's financial need.

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<sup>12</sup> Section 185E(3)(a), Local Government Act 1989.

## General and specific expectations

A council can address this matter by accurately completing the application cover sheet (Microsoft Word form) and the higher cap information template (Microsoft Excel spreadsheet, containing detailed instructions on how to enter the data).<sup>13</sup> These documents cover:

- the higher cap or caps being sought
- the year or years over which the **higher cap or caps** will have effect (maximum of four years).

Appendix A outlines how the rate cap works and how to calculate the base average rate and capped average rate.

We will verify that the proposed **higher cap** is:

- correctly expressed as the total percentage increase above the base average rate, inclusive of the **minister's cap**
- consistently stated in the completed higher cap information template and elsewhere in the application.

A council can apply to us for a **higher cap** for a period of up to four financial years.<sup>14</sup>

An application can specify different **higher caps** each year for a multi-year application (for example 4 per cent to take effect in the first year, then 5 per cent, and then 3 per cent). However, to provide greater certainty to ratepayers and smooth the rate path, we encourage councils to adopt a uniform annual rate of increase. This would be the rate equivalent to the average annual increase over the period specified. If a council chooses not to smooth the rate path, it will need to explain why a varying annual rate of increase is more appropriate.

The proposed **higher cap** should be expressed as the total percentage increase from the base average rate. Any approved **higher cap** replaces the **minister's cap**, rather than being an additional amount. For multi-year applications, we recognise that the **minister's cap** will not be known for the years beyond the immediate budget year. Councils may want to use the Department of Treasury and Finance forecasts of the consumer price index for planning and budgeting.<sup>15</sup> However, the full increase the council seeks should reflect its long-term funding need and should be the outcome of rigorous long-term planning.

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<sup>13</sup> Both templates are available on our website at [Local government > Council compliance with rate caps > Guidance to help councils comply with rate caps](#).

<sup>14</sup> Technically this would be a higher cap in each of (up to) four successive years. Each higher cap creates an ongoing permanent increase in the rate base.

<sup>15</sup> See <http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Macroeconomic-indicators>.



A council should ensure the application cover sheet, the statement and the completed higher cap information template are consistent in stating both the amount of revenue applied for, and the corresponding percentage increase in average rates.

### **Supplementary Guidance 7: Higher cap to transfer waste charge revenue**

We expect a council seeking a **higher cap** to transfer waste charge revenue to specify the **higher cap** being sought, but also the proposed reduction in revenue from service rates and charges and the overall impact on council revenue.

This information will help us, and the council's ratepayers, understand the relationship between the **higher cap** being sought and the council's service rates and charges, and the net impact on ratepayers.

A council can best provide this information by:

- specifying on the application cover sheet the **higher cap** being sought (or **higher caps** if a multi-year application)
- completing all sheets within the higher cap information template.

Applications for a **higher cap** to transfer waste charge revenue may be made for a single year, or for up to four years. Submitting a multi-year application is one way a council could reduce the distributional impacts of moving from a waste charge to a general rate, as this could smooth the transition over a number of years. This could either be by phasing in alignment with the Minister's Good Practice Guidelines over the period, or reducing waste charges in the first year to absorb some of the costs initially to allow general rates to increase more gradually over a number of years. If a multi-year **higher cap** is sought, we encourage councils to smooth the rate path by adopting a uniform annual rate of increase.

Where a **higher cap** is sought to transfer waste charge revenue as well as for another reason, the council should still submit only one application and completed higher cap information template. However, the council should make clear the component of the **higher cap** being sought in relation to each reason. In this case, we encourage councils to first calculate the **higher cap** figure that is related to transferring waste charge revenue. The component related to other reasons should then be included in the higher cap information template to calculate the headline **higher cap** figure council is applying for.

If a council is considering applying for a **higher cap** for another reason as well as to transfer waste charge revenue, it should call us to discuss how best to approach the higher cap information template and other calculations.

## Supporting evidence

As outlined above, a council must complete the application cover sheet and higher cap information template. From information the council enters, the higher cap information template calculates 'with **higher cap**' and 'without **higher cap**' forecasts of selected financial indicators. These are the same indicators used in the local government performance-reporting framework.

As section 3.3 explains, we expect the completed higher cap information template to show results with and without a **higher cap** for the four years of the Budget and up to ten years of the long-term Financial Plan.

### 4.3.2. Reasons

*The reasons for which the council seeks the higher cap.*<sup>16</sup>

#### Purpose

The purpose here is to specify the immediate and underlying reasons for the application. This should explain whether the council is seeking a **higher cap** to address a material change in financial circumstances; a change to the nature or level of services provided; specific infrastructure needs; to ensure long-term financial sustainability; or some other factor or combination of factors.

Applications can specify more than one reason in one year – or in different years of a multi-year application. If different reasons are specified, then applications should demonstrate and quantify the funding requirements for each reason.

#### General and specific expectations

We expect councils to quantify the amount(s) that make up their funding need and identify the reason(s) for which the funding is required. Councils are generally expected to demonstrate a long-term funding need.

As part of its normal planning and budgeting process – without considering a possible **higher cap** – every council is expected to model the services and service levels that it can provide in different revenue scenarios. We therefore expect that any council, if seeking a **higher cap** for 2025–26, has already prioritised the services and expenditures under the rate cap in the base year 2024–25. But, if a council now seeks a **higher cap** to fund a service or expenditure that it funded from *capped revenue* in the base year, it needs to explain why it can no longer do so. The council should also engage with its community on the need for this funding change. Further, it should include evidence of this community engagement in the application. Section 4.3.3 discusses this in detail.

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<sup>16</sup> Section 185E(3)(b), Local Government Act 1989.

Most reasons put forward by a council will likely fit into one or more of the following categories.

- The council faces sustained underlying operating deficits – possibly due to material change in the amount of revenue or costs. The deficits cannot be managed by trade-offs or alternative funding, such as internal savings, the use of other revenues, or by an operational change to minimise the impact in the short term. The application must make this point clear in the response to the fifth legislative matter. We expect a council to manage one-off or immaterial short-term variations in its liquidity through day-to-day financial management.<sup>17</sup> However, when a council faces major increases in its long-term funding requirements, it should clearly identify and quantify the causes.
- The council, in consultation with its community, decided to provide a new or improved service, but does not have the extra funding needed.
- The council is increasing its efforts to address asset renewal requirements, consistent with its long-term strategy and asset-management plans.
- The council wants to fund significant investments in new infrastructure, which it prioritised in its Council Plan, Financial Plan and long-term Asset Plan, and developed through engagement with the community. The funding requirements (and corresponding revenue needs) should reflect the whole-of-life cost of the project. A council should not seek **higher caps** to fund specific small, short-term capital projects that form part of its regular capital-works plans.

A **higher cap** represents a permanent increase in a council's rate base that will continue to compound every year. For this reason, we do not expect to receive applications that aim to fund short-term expenditure or cash-flow requirements. It is generally not in the interests of ratepayers and the community to approve **higher caps** on this basis.

There are no reasons that automatically ensure the approval of a **higher cap**.

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<sup>17</sup> 'Liquidity' here meaning the council's ability to generate sufficient cash to pay its bills on time.

## Supplementary Guidance 8: Higher cap to transfer waste charge revenue

We expect a council seeking a **higher cap** to transfer waste charge revenue to clearly explain (and quantify) the amount by which it proposes to reduce revenue from service rates and charges, and the amount by which it proposes to increase revenue from general rates and charges and explain why it needs to retain this revenue. The council should outline:

- the costs relating to its waste services, preferably over the last five years (to be included in the completed higher cap information template)
- the waste services for which funding is proposed to be transferred from services rates and charges to general rates through the **higher cap**
- whether the proposed **higher cap** will be revenue neutral for the council and, if not, clearly explain the reason(s) for this
- whether any change to its waste services is proposed
- whether forecast waste costs that are proposed to be recovered from general rates and charges are forecast to increase by more than the estimated rate cap in future years and, if so, how the council proposes to manage this.

This information will help us, and the council's ratepayers, further understand the relationship between the **higher cap** being sought, the council's waste services and the funding of those services.

The above information will also help us understand the impact of the **higher cap** on the council and its ratepayers and community members. The bigger the likely impact of the **higher cap** on ratepayers, the more evidence and justification we are likely to need to satisfy ourselves that the proposed **higher cap** is appropriate.

To maintain the integrity of the rate capping system, we expect a council seeking a **higher cap** to transfer waste charge revenue to provide an assurance that if the **higher cap** is approved, the reduction in service rates and charges revenue identified in the **higher cap** application will occur. Further, we expect that if a council moves back to funding any of the identified waste services through an uncapped service rate or charge in the future, this would be done on a revenue neutral basis.

### Supporting evidence

We expect an application to provide documentation that supports the council's stated reasons. The documentation should show if circumstances have changed, or if the council has an existing funding need, such as a renewal backlog or a long-term adjusted underlying deficit. This evidence may come from the financial statements of past years, the long-term Financial Plan or Asset Plan, or from a more detailed, short-term Council Plan or Revenue and Rating Plan. If the increase is needed for one specific action, such as repairing council-owned infrastructure, then the council

needs to explain how in future years it will use the cumulative higher revenue that will have been incorporated into the rate base.

We expect a council to clearly explain any material differences between past budget and actual expenditure (particularly underspending) on services or infrastructure. This explanation will give us confidence that the budgeted funds will be spent appropriately in the interests of ratepayers.

The completed higher cap information template (see section 3.3) is an essential part of the evidence that demonstrates the council's reasons.

We expect the council's reasons for applying for the **higher cap** to be stated or reflected consistently throughout the application.

### 4.3.3. Engagement

*How the views of ratepayers and the community have been taken into account in proposing the higher cap.*<sup>18</sup>

#### Purpose

The purpose of this legislative matter is to ensure a council has considered the views of ratepayers and the community in deciding to apply for a **higher cap**. The council will be better able to deliver value for money if it understands and responds to its community's preferences.

The need and reasons for a **higher cap** should be informed by a council's long-term financial planning and its community engagement. The more the council engages with the community and seeks to identify expectations during its formal planning processes, the easier it will be to address this legislative matter.

The 2020 Act requires councils to consult their communities to develop an engagement policy. They must follow that policy, through engagement with community members, to develop an aspirational Community Vision and strategic long-term plans to give effect to the vision. These plans include the ten-year Financial Plan and Asset Plan, and the four-year Council Plan. Councils should also engage with their communities on the Revenue and Rating Plan.

The council need not undertake a separate engagement program specifically for the higher cap application. However, if the council seeks to rely on engagement that it undertook for planning or other purposes, it should demonstrate how the engagement incorporated and dealt with the issues most relevant to the **higher cap**.

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<sup>18</sup> Section 185E(3)(c), Local Government Act 1989.

## General expectations

Councils will differ in how they engage with ratepayers and communities. We do not prescribe how councils should do this; such decisions sit with councils. But applications should clearly explain how the council engaged with its community and demonstrate its engagement was appropriate and covered the relevant issues. This could include providing information: about the methodology used (audience reach, representation and mode) and the information provided.

Applications should also explain what the council learnt about the views of its ratepayers and the community, and how the council took these views into account in deciding to seek a **higher cap**.

We recognise that effective community engagement can be challenging. Whether or not a certain method is appropriate will depend on the demographic, geographic and financial characteristics of each council.

We expect that councils will increasingly integrate engagement relevant to a higher cap application into their existing planning and budgetary processes.

A council should show that it has engaged openly and effectively, and in ways that draw out community views. Over time, the community should become better informed of the trade-offs required for a council to achieve long-term financial stability.

An application should show the efforts that the council made to engage effectively with its ratepayers and community members to obtain a representative view. The council should actively ask for the views of a sufficient number of people, reflecting diverse groups in the municipality.

Councils should look to the community engagement principles contained in section 56 of the 2020 Act as an indication of the kind of detail we may look for when examining the appropriateness of the engagement undertaken.

#### **Box 4.1 The community engagement principles**

(2) The following are the community engagement principles–

- (a) a community engagement process must have a clearly defined objective and scope;
- (b) participants in community engagement must have access to objective, relevant and timely information to inform their participation;
- (c) participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement;
- (d) participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement;
- (e) participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.

Source: Section 56 Local Government Act 2020

#### **Specific expectations**

We expect the council to provide a narrative describing and demonstrating:

- what it did to engage with ratepayers and community members (outlining who was approached and in what way, when and where) and why the selected methods were chosen
- what information the council gave ratepayers and community members
- what the outcomes of the engagement program were (documentation and analysis of the responses of ratepayers and community members)
- how the council took account of the views of ratepayers and the community. Although not bound to accept those views even if expressed by a majority, the council should explain how it weighed up and considered those views and how they influenced its decision, by describing:
  - what it learnt through the engagement process
  - how it is responding to the issues raised during the engagement and why it is responding that way
  - what the council is doing about unmet expectations arising from the engagement undertaken.

We note in particular that, based on the documentation provided by some councils in previous applications, it has not always been sufficiently clear:

- whether councils engaged with ratepayers and the community and presented adequate information to them, on trade-offs and the potential effects on rates, services and service levels
- how the council considered ratepayer and community views, and how it gave feedback on those views, particularly when it received mixed (or largely negative) responses to its engagement.

## Supplementary Guidance 9: Higher cap to transfer waste charge revenue

What constitutes appropriate council engagement activities will depend on the circumstances of the application.

We expect a council to be able to demonstrate that it has engaged sufficiently with ratepayers and the community such that it understands their views on the key issues relevant to the higher cap application. This will not necessarily require engagement on the higher cap application itself or the reason for the **higher cap** (being to comply with the minister's guidelines and transfer waste charge revenue to general rates), particularly where a council has conducted previous engagement activities on the key issues, and there is no, or little, change in the total revenue it proposes to collect or the services to be delivered as a result of the higher cap application. For example, the council may be able to draw on previous broad engagement exercises that it's undertaken to develop its council plan or community vision, or more narrow engagement exercises like those undertaken during waste service reviews or development of the annual budget.

We will look for details of the relevant engagement activities including evidence:

- that the council took appropriate steps to engage effectively with ratepayers and community members to obtain a representative view
- that these engagement activities canvassed community views on the waste services being provided and the trade-offs between service scope and levels and costs to ratepayers.

We expect the council to demonstrate that it has considered the views of ratepayers and community members obtained through this engagement in determining its proposed mix and level of waste services.

The views of ratepayers and community members on service delivery may also be relevant to the council's consideration (and dismissal) of alternatives to seeking a **higher cap**, including absorbing foregone service rate and charge revenue by reducing expenditure in other service areas.

A council should clearly outline how it has taken ratepayer and community views into account in applying for the **higher cap** and how the **higher cap** is in the long-term interests of ratepayers.

### Supporting evidence

To support its narrative describing community engagement, the council could provide:

- the community engagement policy, as the 2020 Act requires, and any relevant engagement plans



- relevant agendas, material and information provided to community members during relevant engagement processes
- documents that capture and analyse the views expressed during the engagement processes (such as survey results, comments from community meetings or listening posts, or submissions)
- council analyses of community and ratepayer views
- council meeting reports, minutes or records of discussions where the council considered the outputs of the engagement process (that is, the views of ratepayers and the community)
- material provided to community members reporting back and explaining how the engagement process informed the council's higher cap application.

#### 4.3.4. Efficiency and value for money

*How the higher cap is an efficient use of council resources and represents value for money.*<sup>19</sup>

##### Purpose

The purpose of this legislative matter is to ensure an applicant council can demonstrate it has followed adequate policies and processes to ensure its resources are being used efficiently and it is delivering value for money, with a particular focus on those areas of spending most relevant to the higher cap application.

##### General and specific expectations

The application should show how achieving the outcome stated in the **Reasons**, at the cost of the stated **Proposed higher cap**, represents good value for money for ratepayers.

We expect applications to demonstrate that the council has sound processes and policies to ensure it uses resources efficiently in general, and that it followed them in determining the need for a **higher cap**.

Councils should look to the service performance principles contained in section 106 of the 2020 Act as a guide to the issues they should be considering when addressing this legislative matter.

We consider the service performance principles cover expenditure that councils may not traditionally classify as a service, including capital works. We will look not just at how the council has applied the principles in relation to the expenditure most relevant to the **higher cap**, but also how it's applied them to other areas of its expenditure. This will help us understand whether the council has considered other opportunities to improve efficiency and value for money beyond the reasons for the **higher cap**.

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<sup>19</sup> Section 185E(3)(d), Local Government Act 1989.

#### **Box 4.2 Service performance principles**

- (1) A Council must plan and deliver services to the municipal community in accordance with the service performance principles.
- (2) The following are the service performance principles–
  - (a) services should be provided in an equitable manner and be responsive to the diverse needs of the municipal community;
  - (b) services should be accessible to the members of the municipal community for whom the services are intended;
  - (c) quality and costs standards for services set by the Council should provide good value to the municipal community;
  - (d) a Council should seek to continuously improve service delivery to the municipal community in response to performance monitoring;
  - (e) service delivery must include a fair and effective process for considering and responding to complaints about service provision.

Source: Section 106, Local Government Act 2020.

When proposing to fund the delivery of new or expanded services, or new infrastructure, a council should show it took appropriate steps to ensure the planned expenditure would represent value for money for ratepayers. This might include service reviews, business cases and cost/benefit analyses as appropriate, and consideration of whole-of-life project costs. A council should demonstrate the required objectives and outcomes of any proposed changes to services or infrastructure, and the options considered for delivering those objectives and outcomes.

The council should quantify any efficiency savings gained and explain how forecast expenditure reflects those savings.

## Supplementary Guidance 10: Higher cap to transfer waste charge revenue

We expect a council seeking a **higher cap** to transfer waste charge revenue to outline the steps it has taken to ensure its waste costs are efficient and its waste services are delivering value for money for ratepayers.

The council should outline the policies and processes in place to ensure its waste expenditure is efficient and demonstrate, where relevant, that these processes have been followed. This may include evidence of tender processes, service reviews or benchmarking studies where costs have been compared against similar councils.

The supplementary worksheets of the higher cap information template ask a council seeking a **higher cap** to transfer waste charge revenue to provide cost data for each of its waste services over the past five years. The council should identify in its application which of these services it will fund through general rates if we approve the **higher cap**.

Further, if the waste costs that will be recovered through general rates and charges going forward are forecast to increase by more than the rate cap in the future, we expect the council to demonstrate it has given thought to how these costs will be managed within the rate cap.

### Supporting evidence

To support its application, the council may refer to or describe relevant sections of internal policies and processes for ensuring efficiency and value for money. This evidence might include tendering or procurement policies; policies for reprioritising capital expenditure; service reviews and their outcomes; internal efficiency initiatives; business cases; cost/benefit analyses; and assessment of alternative delivery options. The council should also explain how it has followed these policies/processes.

Further, if applicable, the council should provide any data or benchmarking results that compare the council's unit costs with those of its peers.

#### 4.3.5. Alternative funding and offsets

*What consideration has been given to reprioritising proposed expenditures and pursuing alternative funding options and why those funding options are not adequate.<sup>20</sup>*

#### Purpose

The purpose of this legislative matter is to ensure a council considered the prioritisation of services and different funding and financing options before seeking a **higher cap**. The council should

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<sup>20</sup> Section 185E(3)(e), Local Government Act 1989.

demonstrate that it considered other reasonable options, and explain why it judged those options inadequate. The application should show that the council's engagement program sought community views on the issues.

### General and specific expectations

We expect a council to show how it came to prefer raising additional rates revenue through a **higher cap**, rather than other options, and how it considered any trade-offs (see 4.3). The council should show it has considered its funding need in the context of:

- all its current operations and planned investments, and possible efficiencies
- the range and standard of services it delivers, and their alignment with community priorities
- alternative funding or financing options for different activities and investments
- short-term cash-flow options, having regard to long-term revenue and cost trends.

The council should confirm that, having considered these other options, it is still of the view that a rate increase is the best way to deal with budget pressures.

We expect councils to explain how they have considered any affordability concerns associated with a **higher cap** and any steps that the council proposes to take to address them. This is particularly important when councils are seeking a large increase or there are significant distributional impacts.

It is important to remember that debt finance can be a key element of prudent and responsible long-term financial planning. Borrowing money to fund the construction of 'long-lived' assets can help spread the costs of these assets over time. Long-lived assets, by their nature, will service both current and future ratepayers. Smoothing the costs over time also helps ensure those who benefit are also those who pay.

We expect a council applying for a **higher cap** to show it has a well-considered debt policy (preferably consulted on with the community) that guides its decision whether to use debt to reduce the need for additional funding in the short-term through increased rate revenues. If the council adopts a debt position that is not consistent with its debt policy, then the application should clearly explain why.

The application needs to demonstrate that the council considered other suitable funding or financing options. Possible options might include borrowing funds, seeking grants or charging user fees (for the reason stated in the application, or for other purposes). The council might also consider rescheduling planned works, changing the nature or level of current services, or working through collaboration with other councils. It also needs to outline the decisions reached on the options (and the reasons for those decisions). In demonstrating the preferred option, the council should show how a **higher cap** is in the long-term interests of the community and ratepayers. The council, in consultation with the community, must decide priorities and desired outcomes; this decision is not our role.

### **Box 4.3 Trade-offs**

There will inevitably be ‘trade-offs’ between different options that a council can take into account to determine the most appropriate approach to meet its long-term funding need and the long-term interests of the community.

‘Trade-offs’ is a term that appears a number of times in this document, particularly in the context of choices presented in community engagement (section 4.3.3), and when council is examining expenditure proposals or funding options (this section 4.3.5). When an application describes the trade-offs that were considered, we expect a clear statement that compares the financial impacts, service impacts or infrastructure impacts that arise from the choice of pursuing different options.

A council’s strategic approach to considering alternative options and their potential impacts on ratepayers and the community is a key element of sound long-term financial planning.

## Supplementary Guidance 11: Higher cap to transfer waste charge revenue

As with all higher cap applications, we expect a council seeking a **higher cap** to transfer waste charge revenue to demonstrate that it has considered all alternative options available. A council should provide enough information to satisfy us that the **higher cap** is the most appropriate option considering the long-term interests of its ratepayers and community.

For higher cap applications to transfer waste charge revenue, we expect the range of options available to councils will be much narrower than where a council seeks a **higher cap** for a different reason. It is possible that, in relation to **higher caps** to transfer waste charge revenue, there may be as few as three options available:

- continue to provide the same waste services but remove the relevant service rates and charges without increasing general rates and charges (forego the revenue)
- cut or reduce the relevant waste services
- reduce expenditure in other areas of the council's budget.

Where the **higher cap** represents a continuation of current service delivery, a council may best be able to demonstrate that it is the most appropriate option by providing evidence that its current mix of waste services (and associated charges) is in line with community preferences. We expect a council to demonstrate that the alternative options available to it (including the trade-offs between options) were considered in arriving at its current waste services and service rates and charges.

In addition, we expect a council applying for a **higher cap** to transfer waste charge revenue to demonstrate it has considered the distributional impacts on ratepayers of moving from a charge levied per property to a general rate levied according to property value. A council should indicate if it considered alternative options to manage these distributional impacts.

### Supporting evidence

Where relevant, an application should show how the council considered reprioritising services and changing service levels. It should show that the council considered using alternative revenue sources such as its current financial reserves or debt financing for the proposed expenditure. The application should describe the engagement undertaken to identify the community's service preferences and how these should be funded, with council's consideration of these preferences. Where relevant, an application should provide asset-management plans that support the timing of proposed works and the whole-of-life project costs for capital projects.

The council should provide its four-year Revenue and Rating Plan and four-year Council Plan, prepared as required by the 2020 Act. The application should include the council's financial

management policies relating to borrowings and debt, and its ten-year Financial Plan and Asset Plan.

#### 4.3.6. Long-term planning

*That the assumptions and proposals in the application are consistent with those in the council's long-term strategy and financial management policies set out in the council's planning documents and annual budget.*<sup>21</sup>

##### **Purpose**

The purpose of this legislative matter is to show the reasons for the application are consistent with the council's long-term strategy and financial management plans, policies and other key planning documents. Our assessment will consider the council's recent, current and projected financial position, its relevant policies and the way that the **higher cap** links to longer-term plans. This information will frame and support the council's reasons for seeking a **higher cap** and help us understand the council's financial position.

##### **General and specific expectations**

We expect a council to demonstrate that the reasons for its application (and underlying need) are consistently represented in, and supported by, its relevant financial and planning policies and documentation. Accounting records and projections should be reconciled to operational programs and asset-management records.

Councils should look to the relevant overarching governance principles in s 9(2) and the financial management principles required by section 101 of the 2020 Act (box 4.4) as a guide to the issues they should be considering when addressing this legislative matter

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<sup>21</sup> Section 185E(3)(f), Local Government Act 1989.

#### Box 4.4 Financial management principles

- (1) The following are the financial management principles—
  - (a) revenue, expenses, assets, liabilities, investments and financial transactions must be managed in accordance with a Council's financial policies and strategic plans;
  - (b) financial risks must be monitored and managed prudently having regard to economic circumstances;
  - (c) financial policies and strategic plans, including the Revenue and Rating Plan, must seek to provide stability and predictability in the financial impact on the municipal community;
  - (d) accounts and records that explain the financial operations and financial position of the Council must be kept.
  
- (2) For the purposes of the financial management principles, *financial risk* includes any risk relating to the following—
  - (a) the financial viability of the Council;
  - (b) the management of current and future liabilities of the Council;
  - (c) the beneficial enterprises of the Council.

Source: Section 101, Local Government Act 2020.

The higher cap information template described in section 3.3 shows an appropriate level of detail. Box 3.2 explains that we would normally expect the long-term plans to cover a period beyond the four years of the Council Plan and the Revenue and Rating Plan. The council should use its proposed **higher cap** and the **minister's cap** to show and compare results with and without a **higher cap** for the budget year. It could use the Department of Treasury and Finance forecast of the consumer price index as a proxy for the **minister's cap** in future years.<sup>22</sup> This would allow similar comparisons for the years of its short-term detailed plans. The council should explain the basis of any critical assumptions it makes for the later years of its long-term Financial Plan and Asset Plan.

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<sup>22</sup> See <http://www.dtf.vic.gov.au/Publications/Victoria-Economy-publications/Macroeconomic-indicators>.



We would also expect councils to ensure their financial plans are clear and consistent with other supporting material such as financial strategies and policies, and operational asset-management plans. For instance, for a **higher cap** intended to close an asset-renewal gap, we would expect to see the reason, the monetary amounts and the timescale reflected in asset condition reports and financial plans attached to the application.

We also expect an application to consider the council's major financial challenges systematically and reflect them in the financial plans. The plans should deal with major trade-offs, and model alternative scenarios that align with good policies and financial sustainability.

The council will have used certain assumptions to quantify the **higher cap** that it seeks. For example, these assumptions might relate to future costs, demand trends, changing community needs and appropriateness of funding source. All relevant planning documents should state these assumptions consistently. When this is not the case, the application should highlight and explain differences. We also expect a council to demonstrate that it reviews the assumptions underpinning its long-term financial plans annually, and explain the reasons for changes to key assumptions in these plans.

We expect that the council adheres to the financial management principles of the 2020 Act, and that the application and supporting documentation reflect this.

## Supplementary Guidance 12: Higher cap to transfer waste charge revenue

We expect a council seeking a **higher cap** to transfer waste charge revenue to outline how the levels of cost recovery, expenditure and waste services proposed under a **higher cap** are consistent with the council's financial and planning documents. When we assess applications from councils seeking a **higher cap** for reasons other than transferring waste charge revenue, we look for evidence of a long-term funding need in the council's planning documents. This is most clearly shown by deteriorating adjusted underlying results in the council's long term financial plans.

Where a council seeks a **higher cap** to transfer waste charge revenue, the nature of this funding need is different and may not be as evident from the council's long-term financial plans. In this situation, the council's long-term financial plans are more likely to reflect the revenue proposed under the **higher cap** – the key difference will be whether this revenue is collected through service rates and charges or through general rates. We will approach our assessment of a council's long-term funding need in terms of its need to retain the revenue it currently collects through service rates and charges and which it is proposing to collect through general rates and charges if the **higher cap** is approved.

As part of our assessment, we will compare the figures provided by the council in its application (including the completed higher cap information template) with those in relevant planning documents. To aid this comparison, councils should highlight and explain in their applications any key differences, particularly relating to waste expenditure and waste service delivery and the underlying assumptions.

We will consider a council's long-term funding need by examining the impact on key financial indicators if we do not approve the **higher cap** and the council continues to provide the proposed services while foregoing the revenue currently collected through the identified service rates and charges.

### Supporting evidence

As evidence, a council may provide its Community Vision, Council Plan, Financial Plan, Asset Plan, and Revenue and Rating Plan, and its annual budget. It should include or reference any material that supports critical assumptions about external economic trends. The completed higher cap information template should also provide supporting evidence. We expect a council's application to direct us to the relevant sections or pages of the plans and policies.

#### **4.4. Expert advice**

If appropriate, we may engage external expertise to assist our analysis and understanding of key aspects of higher cap applications. This expertise may relate to financial and accounting analysis, infrastructure maintenance and planning, corporate planning, and community engagement. Our use of this expertise does not represent an additional requirement or criterion, but simply helps us better understand a council's application and the implications of our decisions. We will publish any external advice that is directly relevant to our assessment of an application, together with our decision report in response to that council's application.

## 5. Third-party Submissions

### 5.1. How do we respond to ratepayer and stakeholder submissions?

Throughout the process, we might receive submissions from the public or other stakeholders, particularly as ratepayers become aware that their council is considering a higher cap application. The Fair Go Rates system does not prescribe a process for us to respond to these submissions.

Community members should contact their council directly with any concerns about a proposed **higher cap**. The council should then discuss those concerns in its application to us.

Concerned individuals or groups may wish to make a submission to us at any stage by email to [localgovernment@esc.vic.gov.au](mailto:localgovernment@esc.vic.gov.au). How we treat such a submission will depend on where we are in the application process.

#### Submissions received before a council sends an application

Any person or organisation making a submission on a possible **higher cap** will be referred to the relevant council. If that council later applies for a **higher cap**, we will assess how the council sought and responded to the views of ratepayers and the community, in proposing the **higher cap**.

#### Submissions received after a council has sent an application

When we have an application from a council, we will consider a submission only if it is relevant to the purposes of the Fair Go Rates system and the **six legislative matters** set out in section 185E(3) of the 1989 Act (as shown in box 3.1 [Error! Reference source not found.](#)). If we receive submissions that are relevant, then we will consider those submissions, to the extent possible, depending on the stage that an application has reached. With the submitter's consent, we may forward the submission (or parts of it) to the relevant council for its response which we will consider as part of our assessment, but we cannot facilitate a dialogue between the submitter and the council. We may publish submissions with agreement from the submitter and if relevant to our decision.

## 6. Deciding an application

### 6.1. Making and notifying our decision

We will use our best efforts to finish each assessment and publish the decision within two months of receiving an application. We can approve, approve in part, or not approve, the **higher cap** proposed by the council. We may also approve an alternative **higher cap**, if this is not higher than the **higher cap** proposed by the council.

We will publish a decision report that details the **higher cap** approved (or not approved), the year(s) for which it will have effect, and the reasons for our decision. We will also make all decisions publicly available on our website after notifying the relevant council of the decision. Further, any approved **higher cap** will appear in the Victorian Government Gazette.

We will provide a council with an embargoed copy of the decision report before its public release. We will also invite the council for a formal meeting to discuss the reasons for our decision. We can either:

- **approve the proposed higher cap**, which means the council can increase its capped average rate by no more than the percentage amount of the higher cap proposed in its application for the specified period
- **approve the proposed higher cap in part**, which may occur if we do not approve all years for a multi-year application, or all reasons for a multi-reason application
- **approve an alternative higher cap to the one proposed**, which means the council can increase its capped average rate by more than the **minister's cap**, but by a lower percentage increase than the council applied for
- **not approve the higher cap**, which means the council cannot increase its capped average rate by more than the minister's cap.

### 6.2. Contesting a decision

A council can apply for a judicial review by the Supreme Court, on administrative law grounds, of our decision on a higher cap application. This means the court could set aside our decision if it finds that we did not give a council a fair hearing on its application or that we made an error of law. If the court finds a procedural or legal error, then we can be required to make a fresh decision on the application in a manner consistent with the court's guidance. The court could not substitute its own decision based on the facts before it.

## Appendix A: How the rate cap works

The rate cap limits the maximum amount a council can increase its average rates in a rating year.

'Average rates' refers to the rates paid by the average ratepayer and is calculated as total revenue from general rates and municipal charges divided by the total number of rateable properties.

The cap does not apply to other charges and levies such as service rates and charges, special rates and charges, revenue in lieu of rates and the fire services levy.<sup>23</sup>

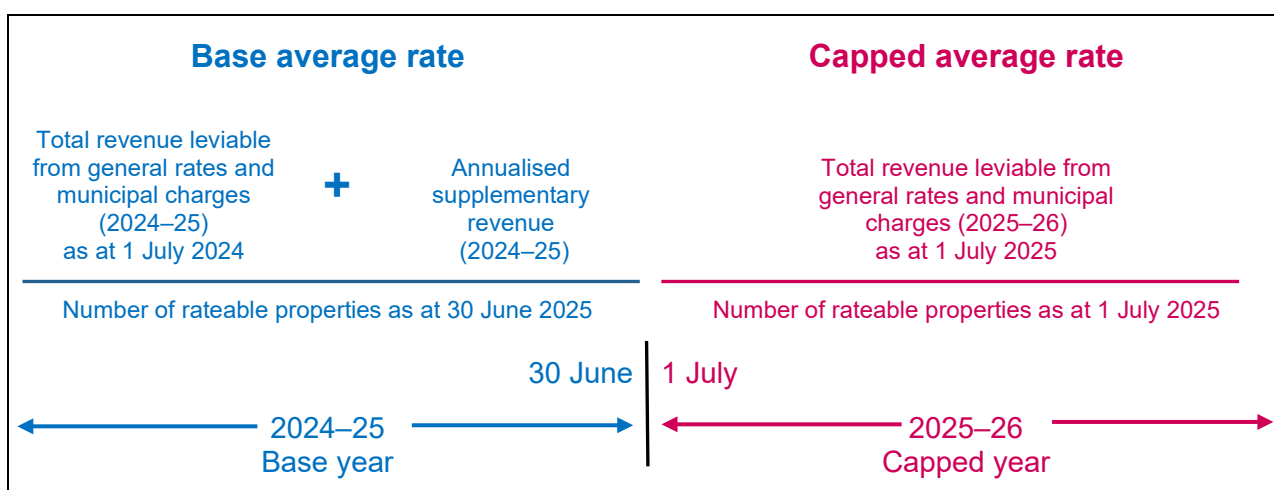
$$\text{Average rates} = \frac{\text{revenue from general rates and municipal charges}}{\text{number of rateable properties}}$$

### Complying with the rate cap

A council must comply with the average rate cap set by general Order by the Minister for Local Government, or a **higher cap** set by special Order by us (if applicable). To comply, the capped average rate must not exceed the base average rate by more than the **average rate cap** or **higher cap**.

Compliance with the rate cap in the capped year is calculated in relation to the base average rate in the preceding rating year. For the 2025–26 financial year, the base year is 2024–25 and the capped year is 2025–26. Figure 1 summarises the calculation of the base average rate and capped average rate for the 2025–26 financial year.

**Figure 1 Summary of the base average rate and capped average rate**



<sup>23</sup> The minister has the power to prescribe other rates and charges to be included in the rate cap.

## How to calculate the base average rate

The base average rate is the total annualised revenue leviable from general rates and municipal charges as at 30 June in the base year divided by the number of rateable properties as at 30 June in the base year. This calculation is shown below.

$$\text{Base average rate} = \frac{\text{Rb}}{\text{L}}$$

**Rb** = total annualised revenue leviable from general rates and municipal charges on rateable properties as at 30 June in the base year

**L** = number of rateable properties as at 30 June in the base year

*For the 2024–25 rating year:*

total revenue leviable from general rates as at 1 July 2024  
(excluding any allowance for supplementary general rates revenue)

+

**Rb** = total revenue leviable from municipal charges as at 1 July 2024  
(excluding any allowance for supplementary municipal charges revenue)

+

annualised supplementary general rates revenue as at 30 June 2025

+

annualised supplementary municipal charges revenue as at 30 June 2025

**L** = number of rateable properties as at 30 June 2025

**Note:** cultural and recreational land (as defined under the Cultural and Recreational Land Act 1963) is excluded from the calculation of base average rate.

## How to calculate annualised supplementary revenue

### Annualised supplementary general rates revenue

= (total value of land as at 30 June in the base year – total value of land as at 1 July in the base year)

x rate in the dollar

= (total value of land as at 30 June 2025 – total value of land as at 1 July 2024)

x rate in the dollar (2024–25)

### Annualised supplementary municipal charges revenue

= (number of rateable properties on which municipal charge is leviable as at 30 June in the base year – number of rateable properties on which municipal charge is leviable as at 1 July in the base year)

x municipal charge per property

= (number of rateable properties on which municipal charge is leviable as at 30 June 2025 – number of rateable properties on which municipal charge is leviable as at 1 July 2024)

x municipal charge per property (2024–25)



## How to calculate the capped average rate

The capped average rate is the total revenue leviable from general rates and municipal charges as at 1 July in the capped year, divided by the number of rateable properties as at 1 July in the capped year. This calculation is shown below.

$$\text{Capped average rate} = \frac{Rc}{L}$$

**Rc** = total revenue leviable from general rates and municipal charges on rateable properties as at 1 July in the capped year

**L** = number of rateable properties as at 1 July in the capped year

*For the 2025–26 rating year:*

**Rc** = total revenue leviable from general rates as at 1 July 2025  
(excluding any estimate for supplementary general rates revenue)  
+  
total revenue leviable from municipal charges as at 1 July 2025  
(excluding any estimate for supplementary municipal charges revenue)

**L** = number of rateable properties as at 1 July 2025

**Note:** cultural and recreational land (as defined under the Cultural and Recreational Land Act 1963) is excluded from the calculation of capped average rate.